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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,472	12/12/2005	Jean-Louis Desjoyaux	1759-213	3145

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ALBANY, NY 12203

EXAMINER

FONSECA, JESSIE T

ART UNIT	PAPER NUMBER
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3637

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07/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,472	Applicant(s) DESJOYAUX ET AL.	
	Examiner Jessie Fonseca	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 1h (fig. 10). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to for the inclusion of legal phraseology such as "said panel". Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology

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often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The disclosure is objected to because of the following informalities: First page of the disclosure should include cross-references to related applications.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "its thickness" in line 9 of claim 1. There is insufficient antecedent basis for this limitation in the claim.

With regards to claim 3: The limitation "has arrangements" renders the claim indefinite, as it's unclear if the applicant is referring to a specific element on the flange or if the flange is arranged in such a manner to anchor itself into the ground.

Claim 3 recites the limitation "ground" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

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Claim 7 recites the limitation "pouring of concrete" in line 4 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "its height" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (US 5,590,493) in view of Jerit (US 3,667,187), and in further view of Laven (US 4,124,907).

With regards to claim 1: Wilson discloses a panel (10) having a prefabricated structure having a quadrangular general shape with a peripheral squared framework

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delimiting vertical assembly flanges (24, 26) and upper and lower horizontal flanges (34, 42) (fig.1), wherein:

said panel (10) is made of plastic (polypropylene – col. 1, lines 57-62) having a thickness between 1/8" (0.31 mm) and 1/2" (12.7 mm), which falls within the approximate range of 7 to 8 mm, with a plurality of stiffening ribs (30) overhanging an outer face of the panel (10) (fig. 4). It is further disclosed the base of the ribs (30) being approximately the same thickness as the panel (fig. 2). It would have been obvious to one of ordinary skill in the art to employ a thickness of 6 to 7 mm in order to provide thickness uniformity with the rest of the panel.

Wilson fails to disclose the length of the panel is between 1000 mm and 2000mm. However, Jerit discloses panel (10) for tank having a length of 74 inches (1879.6 mm) (col. 1, lines 37-38). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the panel of Jerit to panel having length between 1000mm and 2000mm as taught by Jerit, in order to provide a panel that is sized for ease of transport, handling, and installation.

Wilson, in view of Jerit, discloses everything previously mentioned except for the upper horizontal flange has, in its thickness, a profiled groove. The engagement and the clamping of a protective sheet or liner covering an inner face of said panel is related to an intended use and is given little patentable weight. However, Laven discloses a upper horizontal flange, has in its thickness, profiled groove (150) for receiving the upper edge of a liner sheet (106) (fig. 11 and col. 6, line 66 – col. 7, line 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention is

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made to modify the panel of Jerit to include a profile groove within the thickness of the horizontal flange as taught by Lavan, in order to provide a means of securing pool liner.

With regards to claim 2: Wilson, in view of Jerit and Laven, further disclose the vertical flanges (24, 26) have complementary arrangements (fig. 4), which is capable of coupling with adjacent panels in order to produce a closed structure of the pool.

With regards to claim 3: Wilson, in view of Jerit and Laven, further disclose the horizontal flange (42) has arrangements, which is capable of engagement of members for anchoring in the ground.

With regards to claim 4: Wilson, in view of Jerit and Laven, further disclose the ribs (30) are formed vertically on the outer face of said panel (10) (fig. 1).

With regards to claim 5: Wilson, in view of Jerit and Laven, further disclose the horizontal upper edge of the outer face of said panel delimits a strip (52) formed from a plurality of ribs (52) arranged in staggered fashion (fig. 4)

With regards to claim 6: : Wilson, in view of Jerit and Laven, further discloses the thickness of the panel (10), at regular intervals and parallel to its the vertical flanges (24, 26), reductions in thickness capable of acting as hinges in order to modify a longitudinal profile of said panel as desired (fig. 4).

With regards to claim 7: Wilson, in view of Jerit and Laven, further disclose the outer face having catching and positioning arrangements (A) on the upper part (fig. 5). It is noted, that any part of the panel on the upper part serves as a catching and positioning arrangement as it can interact or couple with an attached item. The interacting with complementary arrangements of attached independent modifiable

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elements acting as gutters for the pouring of a concrete for forming a peripheral upper anchorage after coupling of the-various panels is related to an intended use and is given little patentable weight.

With regards to claim 8:, Wilson, in view of Jerit and Laven, further disclose the outer face has, over all of it's height, catching and positioning arrangements (A) (fig. 5). The interacting with complementary arrangements of at least one attached independent element acting as a vertical shaft, in communication with the anchorage elements, for pouring of a concrete is related to an intended use and is given little patentable weight.

Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (US 5,590,493) in view of Jerit (US 3,667,187) and Laven (US 4,124,907), and in further view of Carling et al. (US 5,992,106)

With regards to claim 9: Wilson, in view of Jerit and Laven, discloses everything previously mentioned expect the staggered fashion comprises a honeycomb. However, Carling et al. discloses a panel (10) having a plurality of ribs arranged in a staggered fashion in the form of honeycomb (M). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the panel of Wilson, in view of Jerit and Laven, to include staggered fashion comprising honeycomb as taught by Carling et al. in order to provide a configuration for increase structural stability and integrity of the panel.

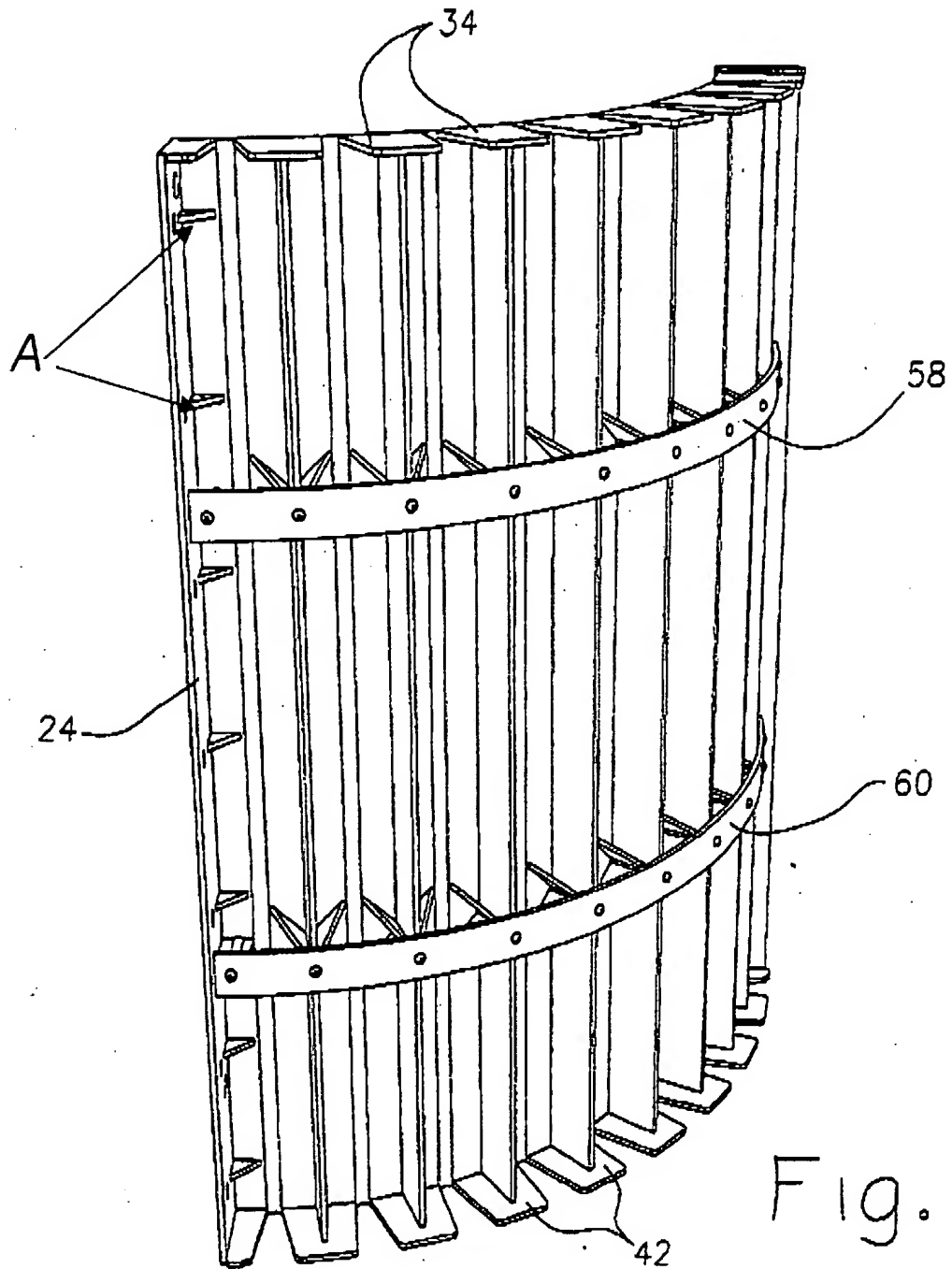


Fig. 5: Wison (US 5,590,493)

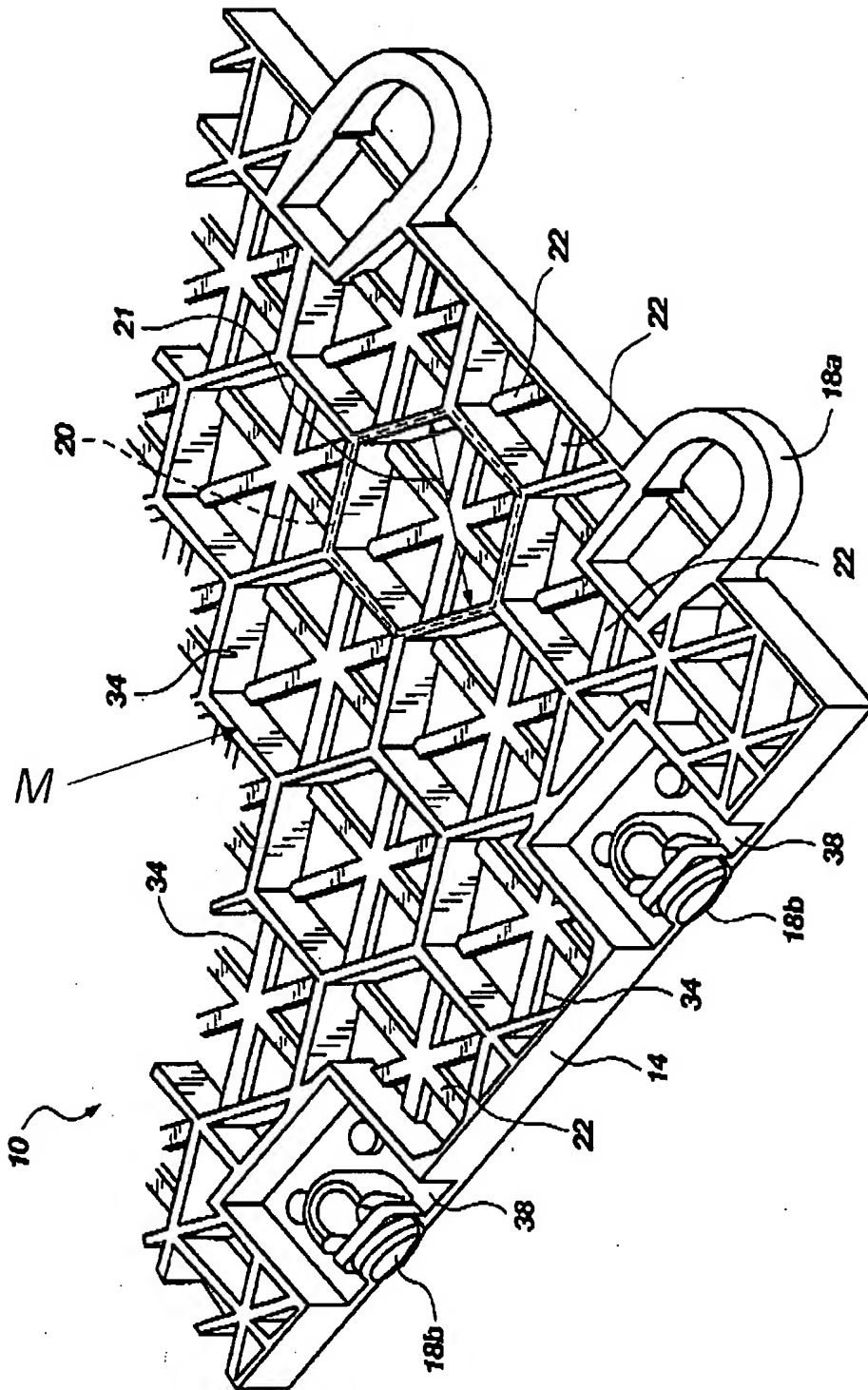


Fig. 2: Carling et al. (US 5,992,106)

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (US 5,590,493) in view of Jerit (US 3,667,187) and Laven (US 4,124,907), and in further view of Desjoyaux et al. (US 6,295,771)

With regards to claim 10: method for fabricating a swimming pool panel comprising:

Wilson discloses a panel (10) having a prefabricated structure having a quadrangular general shape with a peripheral squared framework delimiting vertical assembly flanges (24, 26) and upper and lower horizontal flanges (34, 42) (fig. 1), wherein:

said panel (10) is made of plastic (polypropylene – col. 1, lines 57-62) having a thickness between 1/8" (0.31 mm) and 1/2" (12.7 mm), which falls within the approximate range of 7 to 8 mm, with a plurality of stiffening ribs (30) overhanging an outer face of the panel (10). It is further disclosed the base of the ribs (30) being approximately the same thickness as the panel (fig. 2). It would have been obvious to one of ordinary skill in the art to employ a thickness of 6 to 7 mm in order to provide thickness uniformity with the rest of the panel.

Wilson fails to disclose the length of the panel is between 1000 mm and 2000mm. However, Jerit discloses panel (10) for tank having a length of 74 inches (1879.6 mm) (col. 1, lines 37-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the panel of Jerit

to panel having length between 1000mm and 2000mm as taught by Jeirt, in order to provide a panel that is sized for ease of transport, handling, and installation.

Wilson, in view of Jerit, discloses everything previously mentioned except for the upper horizontal flange has, in its thickness, a profiled groove. The engagement and the clamping of a protective sheet or liner covering an inner face of said panel is related to an intended use and is given little patentable weight. However, Laven discloses a upper horizontal flange, has in its thickness, profiled groove (150) for receiving the upper edge of a liner sheet (106) (fig. 11 and col. 6, line 66 – col. 7, line 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention is made to modify the panel of Jerit to include a profile groove within the thickness of the horizontal flange as taught by Lavan, in order to provide a means of securing pool liner.

Wilson, in view of Jerit and Laven , fails to disclose the panel is formed by compression injection-moulding of a plastic. However, Desjoyaux et al. discloses a panel (1) for swimming pool formed by injection-moulding of a plastic (col. 3, lines 11-14 and col. 4, lines 22-26). Furthermore, it is well known in the art that compression injection moulding is ideal in optimizing the performance of plastic. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention made to modify the panel of Wilson, in view of Jerit and Laven, to include the step of forming a compression injection moulding as taught by Desjoyaux et al. in order to provide panel with optimize performance, including greater structural integrity.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bondy et al. disclose a storage tank having panel (US 2,355,947)

Kwake disclose swimming pool having a profiled groove (US 3,177,501).

Gershman discloses a panel for a pool (US 3,280,408).

Pereira discloses panels for a swimming pool (US 3,416,165).

Ellington discloses a frame structure for a pool (US 4,055,922).

Hardwicke et al. discloses plate having a honeycomb structure (US 4,745,715).

Schelfhorst disclose panels for reservoir (US 4,756,033).

Ward discloses pre-stressed panel (US 5,184,439).

Skov disclose panels having catching arrangements (US 6,668,514).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessie Fonseca whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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